

# IN THE MICHIGAN COURT OF APPEALS

## ORDER

Re: **Jodel Mize v Kathryn Trestain**  
Docket No. **289138**  
L.C. No. **07-725259-CZ**

Henry William Saad, Chief Judge, acting under MCR 7.203(F)(1) and 7.216(A)(10),  
orders:

The claim of appeal from the October 31, 2008 order placing appellants in default is  
DISMISSED for lack of jurisdiction.

This Court may only accept appeals filed as a matter of right by parties who are aggrieved by a final order of the court of claims or the circuit court. MCR 7.203(A)(1). The court rules define the term "final order" as the first judgment or order that disposes of all the claims and adjudicates the rights and liabilities of all the parties. MCR 7.202(6)(a)(i). An order placing a defendant in default cannot be considered a final order using this definition because it is a long established principle that this type of order only settles the question of liability as to the well-pled allegations contained within the complaint and leaves the defaulted party free to contest the amount of damages owed. *Kalamazoo Oil Co v Boerman*, 242 Mich App 75, 78-79; 618 NW2d 66 (2000).



A true copy entered and certified by Sandra Schultz Mengel, Chief Clerk, on

**MAR 23 2009**  
Date

*Sandra Schultz Mengel*  
Chief Clerk